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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,761	01/31/2006	Jonathan G. Foster	GB030129	6168

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EXAMINER	
SIMS, JING F	

ART UNIT	PAPER NUMBER
4148	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,761	FOSTER ET AL.	
	Examiner	Art Unit	
	JING SIMS	4148	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01/31/2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01/31/2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The instant application having Application No. 10566761 filed on 01/31/2006 is presented for examination by the examiner.

Oath/Declaration

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in **37 C.F.R. 1.63.**

Priority

3. As required by **M.P.E.P. 201.14(c)**, acknowledgement is made of applicant's claim for priority based on applications filed on 08/02/2003 (United Kingdom 0318198).

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

4. The applicant's drawings submitted are acceptable for examination purposes.

Specification

5. The use of the trademark JAVA™ on page 2, line 1, 13, 20, and page 6, line 6, has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the

proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 28, the limitation "as described herein with reference to and as shown in the accompanying drawings" is indefinite. The claim does not particularly point out or distinctly the subject matter in the limitation(s). Examiner is not being able to conduct a search based on this claim language; therefore, examiner will not examine the limitation on the merit.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 26, 27, and 28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. Claim 26 is rejected under 35 U.S.C 101 as directed to non-statutory subject matter of software, *per se*. The claims lack the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C. 101. It is clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. It is at best, function descriptive material *per se.*

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material". Both types of "descriptive material" are non-statutory when claimed as descriptive material *per se,* 33 F .3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ 2d 1031, 1035 (Fed. Cir. 1994).

Merely claiming non-functional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of general purpose computer.").

In this case, claim 26 has claimed a "software" for an application for transmission to a terminal; this clearly shows that applicant is claiming a software, *per se*, lacking the

hardware necessary to realize any of the underlying functionality, also, obviously there is no tangible subject matter included in the claim. Therefore, claim 26 is directed to non-statutory subject matter as computer programs, *per se*, i.e. the descriptions or expressions of the programs, are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

10. Claim 27 is rejected under 35 U.S.C. 101 as directed to non-statutory subject matter of signal.

Claim 27 is depended on claim 26; however, it does not add any feature or subject matter that would solve the non-statutory deficiencies of software *per se*. And the dependent claim also fails to place the invention within one statutory class of invention, also, obviously there is no tangible subject matter included in the claim. In this claim applicant has claimed a "signal" for transmission in a digital broadcasting system; this clearly shows the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim is not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

11. Claim 28 is rejected under 35 U.S.C. 101 as directed to non-statutory subject matter. The claimed invention is nothing more than an abstract idea that is not a

practical application producing a useful, concrete and tangible result. A claimed series of steps or acts that do not result in a useful, concrete, and tangible result are not statutory within the meaning of 35 U.S.C. 101. The claim also fails to recite a statutory process, nor does it transform any subject matter to a different state.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. **Claims 1, 8, 9, 10, 12, 13, 14, 24-23, and 26-28** are rejected under 35 U.S.C. 102(b) as being anticipated by Peng et al. (2001 IEEE International conference on Multimedia and Expo) (hereinafter Peng).

As per claim 1, Peng discloses “a method of downloading an application at a terminal (60) in a digital broadcasting system” (on page 685, column 1, line 24-44, downloads “Xlet application” to “home terminal” in a “Digital Video Broadcasting Multimedia Home Platform (DVB-MHP))“comprising the steps of: receiving a launcher application (310); starting the launcher application (310);” (page 685, column 1, line 34-

44, and column 2, line 12-18, home terminal received the downloaded Xlet applications. Application can be launched automatically) “creating a server (315) on the terminal;” (page 685, column 1, line 27-33, system software includes a “virtual machine”. The “virtual machine” is a virtual server) “and generating an application loader (316)” (page 687, column 2, line 27-34, classloader) “for loading a main application into the terminal via the server (315)” (page 685, column 2, line 28-34, Java classes and data modules are transmitted over broadcasting network to terminal).

As per claim 8, Peng discloses "a method according to claim 1 wherein the main application (320) comprises classes (321) and data (322)” (page 685, column 2, line 28-30, java classes and data associated with the applications) “wherein the application loader is arranged to load only the classes via the server (315)” (page 685, column 2, line 12-18, DVB Java application is a set of Java classes. Application can be launched via broadcast signaling on Java virtual machine).

As per claim 9, Peng discloses “a method according to claim 1 wherein the server (315) is arranged to only respond to connection requests which originate inside the terminal (60)” (page 686, Figure 3, the server which is in Xlet only have the association with set-top box resources, not anywhere else).

As per claim 10, Peng discloses “a method according to claim 1 wherein the server (315) is a HTTP server” (page 685, column 1, line 35-37, A DVB-MHP application can be as a DVB-HTML application which generates a HTML virtual machine/server).

As per claim 12, Peng discloses "a method according to claim 1 wherein the digital broadcasting system is the Multimedia Home Platform (MHP)" (page 685, column 1, line 24-25, our work followed the digital video Broadcasting-Multimedia Home Platform (DVB-MHP) standard).

As per claim 13, Peng discloses "a method according to claim 1 wherein the terminal is compatible with Multimedia Home Platform (MHP)" ((page 685, column 1, line 24-29, DVB-MHP is a common platform for user to access multimedia services. Its hardware devices consist of the home terminal, e.g. set-top box, TV).

As per claim 14, Peng discloses "a method of creating an application for transmission to terminals in a digital broadcasting system" (page 685, column 1, line 24-29, 34-35, and 41-44, creating a DVB-Java application called Xlet as a functional implementation of an interactive service in DVB-MHP system) "the method comprising creating a launcher application (310) and a main application (320)" (page 685, column 2, line 12-18, Xlet can be launched automatically via broadcast signaling; line 28-34, Java classes and data associated with the applications) "the launcher application (310) being arranged to create a server (315) on the terminal to which it is sent and to generate an application loader (316) for loading the main application into the terminal via the server (315)" (page 685, column 2, line 12-14, a DVB-Java application, for example Xlet, is actually a set of java classes that operate together. Applications can be launched automatically via broadcast signaling. Page 688, column 1, line 15-17, and figure 4 show a screenshot of the running system. The image is an Ice Hockey application (an Xlet), which was launched by the application manage as a viewer's

request. Peng teaches Java virtual machine server software downloads the Xlet application onto the set top box, which the application launcher installs the server software (Xlet), and then Xlet is executed, therefore to load the data which is the Ice Hokey game as shown in figure 4 for subscriber to view).

As per claim 21, Peng discloses "a method according to claim 14 wherein the main application (320) comprises classes (321) and data (322) (page 685, column 2, line 28-30, java classes and data associated with the applications) "wherein the application loader is arranged to load only the classes via the server (315)" (page 685, column 2, line 12-18, DVB Java application is a set of Java classes. Application can be launched via broadcast signaling on Java virtual machine).

As per claim 22, Peng discloses "a method according to claim 14 wherein the server (315) is arranged to only respond to connection requests which originate inside the terminal (60)" (page 686, Figure 3, the server which is in Xlet only have the association with set-top box resources, not anywhere else).

As per claim 23, Peng discloses "a method according to claim 14 wherein the server (315) is a HTTP server" (page 685, column 1, line 35-37, A DVB-MHP application can be as a DVB-HTML application which generates a HTML virtual machine/server).

As per claim 26, Peng discloses "software for an application for transmission to a terminal in a digital broadcasting system" (page 685, column 1, line 24-29, 34-35, and 41-44, creating a DVB-Java application called Xlet as a functional implementation of an interactive service in DVB-MHP system) "comprising a launcher application (310) and a

main application (320)" (page 685, column 2, line 12-18, Xlet can be launched automatically via broadcast signaling; line 28-34, Java classes and data associated with the applications. Main application includes classes and data) "the software comprising code which, when executed by a processor in the terminal (60), causes the processor to perform the steps of: creating a server (315) on the terminal; and, generating an application loader (316) for loading the main application into the terminal via the server (315)" (page 685, column 2, line 12-14, a DVB-Java application, for example Xlet, is actually a set of java classes that operate together. Applications can be launched automatically via broadcast signaling. Page 688, column 1, line 15-17, figure 4 shows a screenshot of the running system. The image is an Ice Hockey application (an Xlet), which was launched by the application manage as a viewer's request. Peng teaches Java virtual machine server software downloads the Xlet application onto the set top box, which the application launcher installs the server software (Xlet), and then Xlet is executed, therefore to load the data which is the Ice Hokey game as shown in figure 4 for subscriber to view. It is well known that software comprising code and the code is executed by a processor).

As per claim 27, Peng discloses "a signal for transmission in a digital broadcasting system, the signal embodying software according to claim 26" (page 685, column 1, line 24-25, column 2, line 12-18, DVB/Digital Video Broadcasting-Java application is a set of Java classes that need to be signaled as a single instance).

As per claim 28, Peng discloses "a method of downloading an application, method of creating an application, software or signal substantially as described herein

with reference to and as shown in the accompanying drawings" (page 685, column 1, line 42-44, an Xlet can be downloaded to a set-top box. page 685, column 1, line 24-25, column 2, line 12-18, DVB-Java application is a set of Java classes that need to be signaled as a single instance).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. **Claims 2-7, 11, 15-20, 24, and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng in view of Wasilewski et al. (US Patent 6157719) (hereinafter Wasilewski).

As per claim 2, Peng discloses claim 1; however, Peng does not specifically disclose "wherein the main application is an encrypted application".

Wasilewski discloses "wherein the main application is an encrypted application" (column 4, line 41-44, the instance 105 is encrypted).

Peng and Wasilewski are analogous art because they are from the same field of endeavor of implementing JAVA virtual machine on a Digital Video Broadcasting Multimedia Home Platform (DVB-MHP).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the data security module as discussed in Wasilewski onto the

digital television application manager system as described in Peng because it would provide the purpose of permit an access to the broadcast information only to those who have paid for it by encryption and decryption for the downloadable application to strengthen the integrity of the data (Wasilewski, column 1, line 65-68).

As per claim 3, Peng in view of Wasilewski discloses "a method according to claim 2 wherein the launcher application is arranged to decrypt the main application (320)" (in Wasilewski column 5, line 1-13, the EMMs is considered as launcher. Column 9, line 41-55, after terminal/set top box has been authenticated by EMM, the authenticated information in EMM is used in combination with the key carried by ECM to decrypt encrypted application to original form) "as it is loaded via the server (315)" (in Wasilewski column 5, line 59-63, symmetrical key encryption or decryption systems are preferred for use with real-time data which means decrypting as loading to server on the set-top box).

As per claim 4, Peng in view of Wasilewski discloses "a method according to claim 3 further comprising the step of contacting (314) an external party (55) to obtain authorization before decrypting the main application" (in Wasilewski column 5, line 26-35, an entity can provide public key to an other entity that wishes to communicate with it before decrypting the encrypted instance).

As per claim 5, Peng in view of Wasilewski discloses "a method according to claim 4 further comprising receiving a decryption key (313) from the external party in response to the user being authorized" (in Wasilewski column 5, line 26-37, an entity

can provide public key to an other entity that wishes to communicate with it to provide authentication).

As per claim 6, Peng in view of Wasilewski discloses “a method according to claim 4 further comprising the step of collecting payment details (317) from a user of the terminal” (in Wasilewski column 16, line 11-14, DHCTSE, the terminal, records and store the purchase information, then forwarded to control suite).

As per claim 7, Peng in view of Wasilewski disclose “a method according to claim 4 further comprising the step of collecting payment from a user of the terminal” (in Wasilewski column 12, line 50-61, DHCT, the terminal, provides input to indicate wishing to see the event/basketball game, EMM manager responds to the input by sending it to entitlement agent so that the entitlement agent can charge the customer for the event).

As per claim 11, Peng in view of Wasilewski discloses “a method according to claim 1 wherein the main application” (in Wasilewski column 5, line 1-6, corresponds to the EMMs) “is received via a different delivery channel to that used to receive the launcher application” (in Wasilewski column 5, line 6-9, EMMs may be sent interleaved with instance data in same fashion, or they may be sent via a separate channel).

Peng and Wasilewski are analogous art because they are from the same field of endeavor of implementing JAVA virtual machine on a Digital Video Broadcasting Multimedia Home Platform (DVB-MHP).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the data security module as discussed in Wasilewski onto the

digital television application manager system as described in Peng because it would provide the purpose of permit an access to the broadcast information only to those who have paid for it by encryption and decryption for the downloadable application to strengthen the integrity of the data (Wasilewski, column 1, line 65-68).

As per claim 15, Peng discloses claim 14; however, Peng does not specifically disclose “wherein the main application is an encrypted application”.

Wasilewski discloses “the main application is an encrypted application” (column 4, line 41-44, the instance 105 is encrypted)

Peng and Wasilewski are analogous art because they are from the same field of endeavor of implementing JAVA virtual machine on a Digital Video Broadcasting Multimedia Home Platform (DVB-MHP).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the data security module as discussed in Wasilewski onto the digital television application manager system as described in Peng because it would provide the purpose of permit an access to the broadcast information only to those who have paid for it by encryption and decryption for the downloadable application to strengthen the integrity of the data (Wasilewski, column 1, line 65-68).

As per claim 16, Pen in view of Wasilewski discloses “a method according to claim 15 wherein the launcher application is arranged to decrypt the main” (in Wasilewski Column 5, line 1-13, the EMMs is considered as launcher. Column 9, line 41-55, after terminal/set top box has been authenticated by EMM, the authenticated information in EMM is used in combination with the key carried by ECM to decrypt

encrypted application to original form) “application as it is loaded via the server (315)” (in Wasilewski column 5, line 59-63, symmetrical key encryption or decryption systems are preferred for use with real-time data which means decrypting as loading to server on the set-top box).

As per claim 17, Peng in view of Wasilewski discloses “a method according to claim 16 wherein the launcher application is arranged to contact (314) an external party (55) to obtain authorization before decrypting the main application” (in Wasilewski column 5, line 26-35, an entity can provide public key to an other entity that wishes to communicate with it before decrypting the encrypted instance)

As per claim 18, Peng in view of Wasilewski discloses “a method according to claim 17 wherein the launcher application is arranged to receive a decryption key (313) from the external party in response to the user being authorized” (in Wasilewski column 5, line 26-37, an entity can provide public key to an other entity that wishes to communicate with it to provide authentication).

As per claim 19, Peng in view of Wasilewski discloses “a method according to claim 17 wherein the launcher application further comprises means for collecting payment details (317) from a user of the terminal” (in Wasilewski column 16, line 11-14, DHCTSE, the terminal, records and store the purchase information, then forwarded to control suite).

As per claim 20, Peng in view of Wasilewski discloses “a method according to claim 17 wherein the launcher application is arranged to collect payment from a user of the terminal” (in Wasilewski column 12, line 50-61, DHCT, the terminal, provides input

to indicate wishing to see the event/basketball game, EMM manager responds to the input by sending it to entitlement agent so that the entitlement agent can charge the customer for the event).

As per claim 25, Peng discloses "a method of transmitting an application to a terminal in a digital broadcasting system" (page 685, column 1, line 24-29, 34-35, and 41-44, creating a DVB-Java application called Xlet as a functional implementation of an interactive service in DVB-MHP system) "the method comprising transmitting a launcher application (310) and a main application (320) to the terminal" (page 685, column 2, line 12-18, Xlet can be launched automatically via broadcast signaling; line 28-34, Java classes and data associated with the applications to a set top box) "the launcher application (310) being arranged to create a server (315) on the terminal to which it is sent and to generate an application loader (316) for loading the main application into the terminal via the server (315)" (page 685, column 2, line 12-14, a DVB-Java application, for example Xlet, is actually a set of java classes that operate together. Applications can be launched automatically via broadcast signaling. Page 688, column 1, line 15-17, figure 4 shows a screenshot of the running system. The image is an Ice Hockey application (an Xlet), which was launched by the application manage as a viewer's request. Peng teaches Java virtual machine server software downloads the Xlet application onto the set top box, which the application launcher installs the server software (Xlet), and then Xlet is executed, therefore to load the data which is the Ice Hokey game as shown in figure 4 for subscriber to view).

Peng does not disclose the main application is decrypted.

However, Wasilewski discloses the main application is been decrypted when it is been loading into the terminal (column 9, line 41-55, after the terminal has been authenticated by EMM, the authenticated information is used in combination with the key carried by ECM to decrypt encrypted application).

Peng and Wasilewski are analogous art because they are from the same field of endeavor of implementing JAVA virtual machine on a Digital Video Broadcasting Multimedia Home Platform (DVB-MHP).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the data security module as discussed in Wasilewski onto the digital television application manager system as described in Peng because it would provide the purpose of permit an access to the broadcast information only to those who have paid for it by encryption and decryption for the downloadable application to strengthen the integrity of the data (Wasilewski, column 1, line 65-68).

16. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peng in view of Worthington et al. (US Patent Application US 2004/0015831 A1) (hereinafter Worthington).

As per claim 24, Peng discloses "performing the method according to claim 14".

Peng does not disclose “authoring software for creating an application, the authoring software comprising code”

However, Worthington discloses “authoring software for creating an application, the authoring software comprising code” (page 9, column 2, line 1-7, authoring software

for the creation of interactive web pages on a web server comprising WP application software. It is well known any software comprising code).

Peng and Worthington are analogous art because they are from the same field of endeavor of implementing authoring software to create applications.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the creation of the application as discussed in Peng by an authoring software as discussed in Worthington because it would provide the purpose of allowing the user to select the look and feel the desires for the WebPages presented to the user; therefore, to offer a high level programming language that has verbal or visual symbols that correspond to the precise actions which the computer is capable of performing (Worthington, Page 4, column 1, line 31-34).

Conclusion

17. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant's art and those arts considered reasonably pertinent to applicant's disclosure. See **MPEP 707.05(c)**.

18. The following reference teaches execution of trial data.

US Patent 5987523

US Patent 6070239

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JING SIMS whose telephone number is (571)270-7315. The examiner can normally be reached on 7:30am-4:00pm EST, Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Pham can be reached on (572)272-3689. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 17th, 2008 Jing Sims

/J.S./
Examiner, Art Unit 4148

/THOMAS K PHAM/
Supervisory Patent Examiner, Art Unit 4148